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09/751,121	12/28/2000	John C. Abendroth	480468.90047	6805

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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3624

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/751,121

Applicant(s)

ABENDROTH, JOHN C.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 32-36 are pending in this communication filed 05/16/05 entered as Response After Non-Final Action and Request for Extension of time.
2. The Change in Power of Attorney and Correspondence Address Change filed 05/10/05 has been entered.

### ***Claim Objections***

3. Claim 32 is objected to because of the following informalities: Claim 32, line 15 recites "... to bids". This would be better recited as "... to bid". Appropriate correction is required.

Claim 32 the preamble is objected to for the following: Claim 32 reads "A freight management method for arranging for shipment of a load from a shipper by a carrier, ..., respectively, the method comprising:". The preamble should read as follows: A computerized freight management method for arranging for shipment of a load from a shipper by a carrier, ..., the method comprising:". The preamble of a claim should have a computer or network performing the method steps.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 32 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 32 reads "inputting into the central processing system a request ...; electronically transmitting an invitation to bid for ...; electronically

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receiving bids ...; and ... ". It is unclear and very vague who or what is doing the inputting into the central computer system a request" or who or what "the electronically transmitting an invitation is coming from or who or what is "electronically receiving bids" or who or what is "electronically transmitting to the shipper a bid report". In claim 33 who or what is "responding to the bid selection"?

Claim 32 recites the limitation "bid report" in 13 and "bid report" is not in the other claim limitations of claim 32. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,035,289) Chou et al, hereafter Chou in view of (US 6,064,981) Barni et al, hereafter Barni.

As per claim 32. Chou teaches, A freight management method for arranging for shipment of a load from a shipper by a carrier, based on shipping data and carrier data supplied by the shipper and the carrier, respectively, the method comprising: inputting into the central processing system a request for bids from the shipper for shipping the load (col.6, lines 34-51); electronically transmitting an invitation to bid for shipping the load from the central processing system to a plurality of carriers (col. 5, line 31- col. 6,

line 21); and electronically receiving bids at the central processing system from at least some of the carriers for shipping the load (col. 10, line 53- col. 11, line 64).

Chou failed to teach, electronically transmitting to the shipper a bid report with bids received from at least some of the carriers receiving the invitation to bids; and electronically receiving from the shipper a bid selection of at least one of the bids. Barni teaches, electronically transmitting to the shipper a bid report with bids received from at least some of the carriers receiving the invitation to bids; and electronically receiving from the shipper a bid selection of at least one of the bids (col. 4, lines 15-67 and col. 5, lines 51-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to electronically transmit to the shipper a bid report with bids received from at least some of the carriers receiving the invitation to bids; and electronically receiving from the shipper a bid selection of at least one of the bids and to combine Chou's shipping and carrier data with Barni's bids received from at least some of the carriers receiving the invitation to bids; and electronically receiving from the shipper a bid selection of at least one of the bids because such a combination would allow Chou to allow customers the opportunity to evaluate competitive prices in one consolidated location instead of having to navigate to individual company web sites.

As per claim 33. Chou failed to teach, The method of claim 32, further comprising the step of responding to the bid selection by electronically transmitting a name and a phone number of the corresponding one of the carriers to the shipper. Barni teaches, responding to the bid selection by electronically transmitting a name and a phone number of the corresponding one of the carriers to the shipper (col. 6, line 33-

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col. 7, line 54 and fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to respond to the bid selection by electronically transmitting a name and a phone number of the corresponding one of the carriers to the shipper and to combine Chou's bid records, shippers, and carriers with Barni's responding to the bid selection by electronically transmitting a name and a phone number of the corresponding one of the carriers to the shipper because such a combination would allow Chou to navigate to a page where customer bids are posted with the name and phone number of one of the carriers and customer's.

As per claim 34. Chou teaches, The method of claim 32, wherein the invitation to bid is first transmitted from the central processing system to a third party, who then communicates the invitation to bid to a plurality of carriers in locations remote from the central processing system; and wherein the bids for at least some of the carriers are electronically received at the central processing system from the third party (col. 1, line 59-col. 2, line 24).

As per claim 35. Chou teaches, The method claim 32, wherein the step of electronically transmitting an invitation to bid further includes electronically transmitting invitations for bids for a plurality of loads to an individual carrier (col. 2, line 59- col. 4, line 25)..

As per claim 36. Chou failed to teach, The method of claim 32, wherein the step of electronically transmitting to the shipper a plurality of bids further includes electronically transmitting to the shipper bids for a plurality of loads from a plurality of carriers. Barni teaches, electronically transmitting to the shipper a plurality of bids

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further includes electronically transmitting to the shipper bids for a plurality of loads from a plurality of carriers (col. 5, line 16- col. 6, line 32 and fig.'s 4, 6, 8, and 11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to electronically transmit to the shipper a plurality of bids for a plurality of loads from a plurality of carriers. Barni teaches, electronically transmitting to the shipper a plurality of bids further includes electronically transmitting to the shipper bids for a plurality of loads from a plurality of carriers and to combine Chou's bidding, shippers, and carriers with Barni's electronically transmitting to the shipper a plurality of bids further includes electronically transmitting to the shipper bids for a plurality of loads from a plurality of carriers because such a combination would allow Chou to provide an improved online business wherein customers can obtain cargo rates from one or more freight forwarders and/or carriers and negotiate shipping routes and pricing with freight forwarders and carriers.

### ***Response to Arguments***

8. Applicant's arguments filed 05/16/05 have been fully considered but they are not persuasive.

Issue no. 1: Applicant argues: Mr. Abendroth's reply to the United States Patent Office Action of April 6, 2004 (April 2, 2004) cancelled claims 1-31 and replaced them with new claims 37-66 to meet the aforementioned stated re-drafting requirements with claims 32-36 remaining as original and now these claims have been withdrawn by the United States Patent Office from consideration in their response leaving only the five claims 32-36 original claims previously rejected as being not examinable based on form

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and language requirements which before, have again been rejected, yet this time apparently examinable without any changes having been made has been considered.

Response: Claims 32-36 were rejected based on what could be understood as the claims were written. Claim 32 has 35 USC 112 second paragraph problems that have not been addressed and claim objections in claims 32 and 33 which need to be addressed and corrected. Applicant's invention is not clearly understood from the claims as written. Applicant is respectfully requested to point out to the Examiner in the claim language and to claim the inventive concept. The claims 32-36 were rejected according to the best that the Examiner could understand from the claim language.

Furthermore, Applicant could have amended/redrafted claims 1-31 without it being necessary to cancel claims 1-31. The withdrawal and non-examination of new claims 37-66 is because of the following: (1) a restriction could have been given because claim 37 is directed to the buying and selling of a product comprising a good or service with method steps performing the buying and selling. Claim 32 is directed to freight management and "arranging for shipment of a load to a shipper with method steps to perform shipping the load. Claims 37-66 could be amended to have relating features such as "shipping a load, a shippers bulletin board, a carrier's bulletin board, and a master bulletin board" and change the "buying and selling of a product" to "a method of freight management for arranging for shipment of a load from a shipper by a carrier" or add "buying and selling of a product" to independent claims 32 and 63 for reconsideration.



Conclusion: The same references and rejection have been applied to claims 32-36 in an effort to give Applicant the opportunity to amend the independent claims 32, 37, and 63 in order for claims 32-66 to be examined in an effort to move the prosecution of the application forward. If Applicant does not decide to amend claims 32, 37, and 63 as suggested in order for claims 32-66 to be examined, the next Office action could result in a Final Rejection.

### **Inquiries**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday-Thursday, 6:30AM-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E. Colbert  
August 3, 2005